MONTANA LEGISLATIVE HISTORY

Chapter 272 19 93

Bill H 408 S _____ Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Natural Resources		
Hearing Date(s)	Feb 03	✓ C	Hearing Date(s)	Mar 19	✓ C
	Feb 13	✓ C		Mar 26	✓ C
		C			C
		C			C
Date Out	Feb 15	✓ C		Mar 29	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/31	2ND READING CONCURRED	49	0
4/01	3RD READING CONCURRED	46	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/06	2ND READING AMENDMENTS NOT CONCURRED	75	24
4/06	CONFERENCE COMMITTEE APPOINTED		
4/16	CONFERENCE COMMITTEE REPORT NO. 1		
4/19	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	97	0
4/20	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	96	0
	SENATE		
4/07	CONFERENCE COMMITTEE APPOINTED		
4/17	CONFERENCE COMMITTEE REPORT NO. 1		
4/19	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/20	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	46	0
4/23	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/24	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR CHAPTER NUMBER 560 EFFECTIVE DATE: 10/01/93		

HB 406 INTRODUCED BY BARNHART, ET AL.

INCREASE PARENTAL LEAVE FOR ADOPTIVE PARENTS AND BIRTH FATHERS

1/30	INTRODUCED		
1/30	REFERRED TO STATE ADMINISTRATION		
1/30	FIRST READING		
2/05	HEARING		
2/05	TABLED IN COMMITTEE		

HB 407 INTRODUCED BY DOLEZAL, ET AL.

REVISE DEFINITION OF GENERAL RECREATIONAL USE AS APPLIED TO USE OF STATE LANDS, ELIMINATE LICENSE, AND REQUIRE POSTING

1/30	INTRODUCED		
1/30	REFERRED TO NATURAL RESOURCES		
1/30	FISCAL NOTE REQUESTED		
1/30	FIRST READING		
2/06	FISCAL NOTE RECEIVED		
2/08	FISCAL NOTE PRINTED		
2/15	HEARING		
2/17	TABLED IN COMMITTEE		
2/20	MOTION FAILED TO TAKE FROM COMMITTEE AND PLACE ON 2ND READING	46	53

HB 408 INTRODUCED BY FAGG, ET AL.

GENERALLY REVISE MONTANA SUBDIVISION AND PLATTING ACT

1/30	INTRODUCED		
1/30	REFERRED TO NATURAL RESOURCES		
1/30	FIRST READING		
2/03	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED AS AMENDED	77	22
2/19	3RD READING PASSED	76	22

	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO NATURAL RESOURCES		
3/19	HEARING		
3/27	COMMITTEE REPORT—BILL CONCURRED		
3/29	2ND READING CONCURRED	36	13
3/30	3RD READING CONCURRED	38	12
	RETURNED TO HOUSE		
4/01	SIGNED BY SPEAKER		
4/02	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 272		
	EFFECTIVE DATE: 04/06/93		

HB 409 INTRODUCED BY PAVLOVICH

SET REQUIREMENTS NECESSARY TO WAIVE INDIGENTS' FILING FEES IN COURT ACTIONS

1/30	INTRODUCED		
1/30	REFERRED TO JUDICIARY		
1/30	FIRST READING		
2/05	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED		
2/10	2ND READING PASSED	95	3
2/13	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
2/16	FIRST READING		
2/16	REFERRED TO JUDICIARY		
3/08	HEARING		
3/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	50	0
3/17	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	93	1
4/02	3RD READING AMENDMENTS CONCURRED	98	1
4/13	SIGNED BY SPEAKER		
4/14	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 447		
	EFFECTIVE DATE: 10/01/93		

HB 410 INTRODUCED BY SIMPKINS, ET AL.

PROVIDE THAT AN AMERICAN FLAG BE DISPLAYED IN EACH PUBLIC CLASSROOM

1/30	INTRODUCED		
1/30	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/30	FIRST READING		
2/05	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED		
2/10	2ND READING PASSED	74	24
2/13	3RD READING PASSED	73	22
	TRANSMITTED TO SENATE		
2/16	FIRST READING		
2/16	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/08	HEARING		
3/09	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/10	2ND READING CONCURRED	46	0

HOUSE BILL NO. 408

INTRODUCED BY FAGG, GILBERT, SWANSON, DOHERTY, YELLOWTAIL, WELDON, WEEDING, B. BROWN, WANZENRIED, BRANDEWIE, HARRINGTON, HIBBARD

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
FEBRUARY 16, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1993	PRINTING REPORT.
	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 18, 1993	ENGROSSING REPORT.
FEBRUARY 19, 1993	THIRD READING, PASSED. AYES, 76; NOES, 22.
FEBRUARY 22, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 29, 1993	SECOND READING, CONCURRED IN.
MARCH 30, 1993	THIRD READING, CONCURRED IN. AYES, 38; NOES, 12.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 30, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

House BILL NO. 408

INTRODUCED BY Jay Stovall Swanson Doherty Yellowtail Welborn Keenan Gillan Bob Brown Hammond Hibbard

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA SUBDIVISION AND PLATTING ACT; CHANGING THE DEFINITION OF SUBDIVISION; REMOVING THE OCCASIONAL SALE EXEMPTION; REMOVING THE 20-ACRE LIMITATION; CHANGING THE CRITERIA FOR LOCAL GOVERNMENT SUBDIVISION REVIEW; LIMITING THE NUMBER OF PUBLIC HEARINGS ON SUBDIVISIONS; AMENDING SECTIONS 76-3-102, 76-3-103, 76-3-104, 76-3-207, 76-3-605, AND 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-102, MCA, is amended to read:

"76-3-102. Statement of purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; ~~to require that whenever necessary, the appropriate approval of subdivisions be contingent upon a written finding of public interest by the governing body;~~ and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey."

Section 2. Section 76-3-103, MCA, is amended to read:

"76-3-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to ~~himself~~ the landowner no rights ~~which~~ that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(3) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter.

(4) "Examining land surveyor" means a registered land

surveyor duly appointed by the governing body to review surveys and plats submitted for filing.

(5) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant thereto.

(6) "Governing body" means a board of county commissioners or the governing authority of ~~any~~ a city or town organized pursuant to law.

(7) "Irregularly shaped tract of land" means a parcel of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.

~~(8)--"Occasional--sale"--means-one-sale-of-a-division-of land-within-any-12-month-period.~~

~~(9)~~(8) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building ~~parks,--or--any--combination--thereof--which--comprises~~ that comprise a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

~~(10)~~(9) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

~~(11)~~(10) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body.

~~(12)~~(11) "Registered land surveyor" means a person licensed in conformance with Title 37, chapter 67, to practice surveying in the state of Montana.

~~(13)~~(12) "Registered professional engineer" means a person licensed in conformance with Title 37, chapter 67, to practice engineering in the state of Montana.

~~(14)~~(13) "Subdivider" means ~~any~~ a person who causes land to be subdivided or who proposes a subdivision of land.

~~(15)~~(14) "Subdivision" means a division of land or land so divided ~~which~~ that creates one or more parcels ~~containing less-than-20-acres~~, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and ~~shall--include~~ includes any resubdivision and ~~shall~~ further ~~include~~ includes ~~any~~ a condominium or area, regardless of its size, ~~which~~ that provides or will provide multiple space for

recreational camping vehicles or mobile homes."

Section 3. Section 76-3-104, MCA, is amended to read:

"76-3-104. What constitutes subdivision. A subdivision ~~shall--comprise~~ comprises only those parcels ~~less-than-20 acres-which~~ that have been segregated from the original tract, and the subdivision plat ~~thereof-shall~~ must show all ~~such~~ the parcels whether contiguous or not."

Section 4. Section 76-3-207, MCA, is amended to read:

"76-3-207. Subdivisions exempted from review but subject to survey requirements -- exceptions. (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions of land are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions of land not amounting to subdivisions:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a gift or sale to ~~any~~ a member of the landowner's immediate family;

(c) divisions made outside of platted subdivisions by sale or agreement to buy and sell where the parties to the transaction enter a covenant running with the land and

revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;

~~(d)--a-single-division-of-a-parcel--outside--of--platted subdivisions-when-the-transaction-is-an-occasional-sale;~~

~~(e)~~(d) for five or fewer lots within a platted subdivision, relocation of common boundaries and the aggregation of lots; and

~~(f)~~(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. ~~Any restrictions-or-requirements~~ A restriction or requirement on the original platted lot or original unplatted parcel ~~continue~~ continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, ~~any~~ a division of lots ~~which~~ that results in an increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the governing body, and an amended plat must be filed with the county clerk and recorder;

(b) ~~any~~ a change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to the provisions of this chapter.

(3) No A division of land may not be made under this section unless the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are not delinquent."

Section 5. Section 76-3-605, MCA, is amended to read:

"76-3-605. Hearing on preliminary plat. (1) The governing body or its authorized agent or agency shall hold a public hearing on the preliminary plat and shall consider all relevant evidence relating to the public health, safety, and welfare, including the environmental assessment, to determine whether the plat should be approved, conditionally approved, or disapproved by the governing body.

(2) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on the preliminary plat and annexation whenever possible.

(3) Notice of such a hearing shall must be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. The subdivider, each property owner of record, and each purchaser under contract for deed of property immediately adjoining the land included in the plat shall also be notified of the hearing by registered or certified mail not less than 15 days prior to the date of the hearing.

(4) When a hearing is held by an agent or agency

designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the plat. This recommendation must be submitted to the governing body in writing not later than 10 days after the public hearing.

(5) The governing body or its authorized agent or agency may hold no more than two public hearings on a proposed subdivision."

Section 6. Section 76-3-608, MCA, is amended to read:

"76-3-608. Criteria for local government review. (1) The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be is whether the preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, and or additional information demonstrate demonstrates that development of the subdivision would be in the public interest. The governing body shall disapprove any subdivision which it finds not to be in the public interest meets the requirements of this chapter.

(2) To determine whether the proposed subdivision would be in the public interest, the The governing body shall issue written findings of fact which that weigh the following criteria for public interest in subsection (3), as applicable.

~~(a)--the-basis-of-the-need-for-the-subdivision;~~

~~(b)--expressed-public-opinion;~~

~~(c)--effects-on-agriculture;~~

~~(d)--effects-on-local-services;~~

~~(e)--effects-on-taxation;~~

~~(f)--effects-on-the-natural-environment;~~

~~(g)--effects-on-wildlife-and-wildlife-habitat;-and~~

~~(h)--effects-on-the-public-health-and-safety.~~

(3) A subdivision proposal must undergo review for the following primary criteria:

(a) the effect on agriculture, local services, the natural environment, wildlife and wildlife habitat, and public health and safety;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part;

(c) the provision of easements for the location and installation of any planned utilities; and

(d) the provision of access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning

the parcel."

NEW SECTION. **Section 7. Applicability.** (1) [Sections 1 through 5] apply to all subdivision applications filed after passage and approval of [this act].

(2) [Section 6] applies to all subdivision applications filed after September 30, 1993.

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN DICK KNOX**, on February 3, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Rolph Tunby, Vice Chairman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Russ Fagg (R)
Rep. Gary Feland (R)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Hal Harper (D)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Howard Toole (D)
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Roberta Opel, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB's 280, 242, 408 and 218
Executive Action: None

HEARING ON SB 280

Informational Testimony:

Michael Kakuk, Environmental Quality Council attorney, distributed a Summary/Statement of Purpose regarding HB 280, **EXHIBIT 1,** and a chart depicting the purpose of each of the subdivision bills, HB 280, HB 242, HB 408 and HB 218. **EXHIBIT 2**

regarding this acreage.

REP. RANEY asked **Carlo Cieri, Park County Commissioner,** if land could be purchased under one ownership with more than one house per subdivision. **Mr. Cieri** replied that under current law it was possible to have ten houses on forty acres of land.

Closing by Sponsor:

REP. SWANSON said the committee heard testimony requesting a speedy, prompt review process. Expedited review already exists, she said, as current subdivision review requires only an application with a 35 day review period. She said she believes in strong public involvement and did not want to pass any legislation which would infringe on this involvement.

REP. SWANSON said the fiscal note would have no financial impact as it relates to a fee-based system. She said government should not have to absorb the cost of subdivision review, emphasizing that she did not want to see any impact on the general fund.

HEARING ON HB 408

Opening Statement by Sponsor:

REP. RUSSELL FAGG, HD 89, Billings, stated that 90% of land divisions are not reviewed. He said HB 408 allows for land division but not without review by local government. The bill also does away with exemptions and is a balanced bill. **EXHIBIT 43**

REP. FAGG said he would support HB 280, HB 242 and HB 408 and urged the committee to pass HB 280 plus one of the simpler bills. **REP. GILBERT'S** bill, HB 280, should take precedence over any other subdivision bill.

Proponents' Testimony:

Valerie Drake, Gallatin County, submitted testimony supporting HB 408. **EXHIBIT 44**

Lisa Bay, Lewis and Clark County Conservation District, supports HB 408 and HB 218 and noted the two bills were fairly close in agreement.

Jim Richards, Montana Wildlife Federation, testified in support of HB 408.

Tonia Bloom, on behalf of the League of Women Voters, noted HB 408 is a worthy contribution to the subdivision debate but added the League is concerned with the family conveyance. Without the occasional sale, she said, a family sale is more probable.

Dennis Olson, NPRC, said they support HB 408 and public participation as a means to improve the reform. He stated NPRC supports closing loopholes for use of the family conveyance.

Jim Nugent, City of Missoula, asked the committee to consider passing HB 280 and one of the smaller subdivision bills. He said there is continued concern about multi-family complexes.

Terry Murphy, Jefferson County, said emergency temporary zoning laws need to be brought under control.

Gerald Newgard, Lake County Commissioner, stated HB 408 did include notification for the review process. He suggested combining HB 408, HB 218 and HB 242 should be considered.

Steve Herbaly, Flathead County, said that between 1961 and 1983, 6,000 unreviewed lots were created in Montana. He stated current subdivision law puts the state in one of the worst land scenarios in the country.

Doug Grand, Bozeman, suggested each city be given the opportunity to review all land divisions.

Barb Bennetts, Bennetts Real Estate Agency, said whichever bill passes the committee, loopholes should be closed. Current land division sales are not enforced.

Janet Ellis, Montana Audubon Legislative Fund, said Audubon would support this subdivision bill.

Ted Doney, **Montana Dairymen's Association,** noted HB 408 has great promise and does not include unsound compromise reform.

John Bloomquist, Montana Stockgrower's Association, suggested the bill should include an acre limitation.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. FAGG thanked the committee and reiterated the need for the committee to pass HB 280 and one of the smaller subdivision bills.

HEARING ON HB 218

Opening Statement by Sponsor:

REP. RAY BRANDEWIE, HB 49, Bigfork, said the hearing marked the 20th anniversary of the Subdivision and Platting Act. Skirting the approval process is the main reason previous subdivision law

HOUSE OF REPRESENTATIVES

Natural Resources COMMITTEE

ROLL CALL

DATE 2/3/93 BILL NO. Subdivision Bills NUMBER

MOTION: HB 218, 280, 242 + 408.

ROLL CALL

NAME	AYE	NO
Jody Bird	9	
Vivian Brooke	9	
Russ Fagg	9	
Gary Feland	9	
Mike Foster	9	
Bob Gilbert	9	
Hal Harper	9	
Scott Orr	9	
Bob Raney	9	
Dore Schwinden	9	
Jay Stovall	9	
Emily Swanson	9	
Howard Toole	9	
Doug Wagner	9	
Rolph Tunby, Vice Chairman	9	
Dick Knox, Chairman	9	

EXHIBIT 3
DATE 2-3-93
HB's 280, 242, 408 & 218

February 3, 1993

Testimony Before Natural Resources Committee
by Karen Fagg

Issue: Subdivision Reform Legislation

Mr. Chairman, members of the committee, for the record my name is Karen Fagg, and I appear before you today representing the Racicot administration.

The Racicot administration does not endorse any one specific bill today, but we do endorse the concept of subdivision reform. We also stand ready to assist this committee and this Legislature in working with the sponsors of the various subdivision reform bills to ensure that a reasonable, responsible bill passes this body for Governor Racicot's signature.

I can assure you that Governor Racicot understands the need for and is prepared to support and sign subdivision reform legislation.

It is time for subdivision reform. Reports indicate that some ninety percent of all land divisions escape local government review. These unreviewed land divisions can result in unsafe roads, unsafe drinking water, improper septic systems, conflicts among neighbors, poor fire protection, unnecessary and unwanted expense to local governments and taxpayers, hidden costs for landowners, unanticipated impacts of local social systems and broken dreams of consumers who find their Big Sky "dream home" is not a dream home at all.

Subdivision reform need not be anti-business legislation. In fact, quite the opposite can be true. Reasonable reforms can in fact be pro-business legislation. Subdivision reform need not be anti-property rights legislation. Again, the opposite can be true. Reasonable reforms can be supportive of property rights.

The goal of subdivision reform must be to protect the consumer, protect private property rights and prevent haphazard, unreviewed subdivisions of land. The goal must also be to ensure a quick, predictable and stable method of reviewing subdivision plans. There is no need for subdivision reform to lead to additional red tape, delays or unnecessary restrictions for landowners, purchasers or developers. In fact, expedited review of minor subdivisions is a concept the Governor supports.

Most of the subdivision reform bills before you share common ideals and language. These shared concepts -- which address occasional sales, family conveyances and the size of unreviewable parcels -- can be a starting point for common ground which can hopefully lead to consensus legislation. For instance, each bill removes occasional sales from the list of exemptions to subdivision reviews. A majority of bills modify the family sale provisions and

acreage under a subdivision definition. These are three central components to subdivision reform and there is the appearance of some agreement -- at least in principle -- on these issues.

We commend the sponsors of each subdivision reform bill and urge them to work with each other, this committee, interest groups as well as the Racicot administration toward legislation which can achieve the goals stated.

The Big Sky Country

EXHIBIT 43
DATE 2-3-93
HB 408

MONTANA HOUSE OF REPRESENTATIVES

3

H.B. 408

2 valid concerns of local governments and environmenta

① 20 acre exemption;

② Occassional Sale exemption

* H.B. 408 takes out these 2 exemptions

2 valid concerns of developers and realtors:

① Subjective public interest criteria (§ 76-3-608,

② Multiple public hearings on subdivisions.

* H.B. 408 takes out public interest criteria and limits number of public hearings to 2.

H.B. 408 is a balanced bill. Correcting the 4 areas causing the most concern.

EXHIBIT 44
DATE 2-3-93
HB 408

NAME Valorie Drake

ADDRESS 1477 Hamilton Road Belgrade, MT 59714

HOME PHONE 388-1888 WORK PHONE 586-1593

REPRESENTING self.

APPEARING ON WHICH PROPOSAL? HB 408

DO YOU: SUPPORT _____ OPPOSE _____ AMEND ✓

COMMENTS:

I support ~~most~~ aspects of HB408 - specifically, removing the occasional sale, the 20-acre exemption, and the public hearing clarification.

I would, however, also remove the family conveyance. While I believe that the ability to give lands to family members for their own homes is good, I also believe such divisions of land should go through the review process for compliance with community plans, allowing for problems to be spotted and addressed in advance, before such problems cause increased costs to taxpayers for unplanned for public services.

Regarding the local government review changes, I believe the additions suggested are good, but that public participation must remain.

Thank you for addressing this important issue!

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/3/93

~~SENATE~~ House Bill COMMITTEE ON - HB 280, 240, 408, 218

BILLS BEING HEARD TODAY: Subdivision Bills

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Matt Whitney	MT Chapter AFS	all Sub. D.	X	
Edward [illegible]	ET Ranch	all HB 280	X	
Bill Erickson	Bear Creek Council Northern Plains Resource Council	HB 242	X	
Matthew K Arno	MontPIRG	408 242	X	
Valorie Drake	self	242 408	X	
Mike Money	SELF			X
Gerald F Lundquist	Lake County	all	✓ Except Subd.	
Herva Simpson	self + L.W.V.	HB 242	✓	
Janet Ellis	MT Audubon	HB 242 [illegible]	X	
Janet Ellis	MT Audubon	HB 218 280	w/amend ✓	
Brooks Martin	self	242 ~~280~~ 280	X	X
Terry Murphy	self	218 242 408 280	X	
Kelly Flaherty	self	242 408	X	
Hugh Zackheim		242 408 280	X	
Mary Sexton	self	242 408 280	X	
Lorna Frank	Mt. Farm Bureau	280	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 2/3/93

~~House~~ ~~SENATE~~ COMMITTEE ON _____

BILLS BEING HEARD TODAY: Subdivision Bills / House

Name	Representing	Bill No.	Check One: Support	Oppose
SHERM JANKE	MONTANA CHAPTER SIERRA CLUB	242	✓	
Dick Boehmler	3125 Old Pond Rd Missoula Self	242	✓	
Jim Richard	HB 218, 242, 408 280		✓	
TIM SWANSON	17165 WILSON	280		✓
Paul Brey	2455 Arnica Bozeman	242	✓	
Steve Powell	Ravalli Co - MACo	280 242	✓	✓
BEBE FITZGERALD	Self	242	✓	
DAN McGee	Mt Assn Land Surveyors	280 242 218 408		✓
Penny Kake	Montana City School	242 408 218 280	✓	
Julia Page	Upper Yellowstone Defense Fund	280 242	✓	
Chris Grinnell	Missoula City Council	242	✓	
Annette Cade	Montana City School	242	✓	
Peggy Murray	Self	242 408	✓	
FROM HART	Missoula County	242	✓	
Tonia Bloom	League of Women Voters of Monta	242 408 280 218	✓	✓
Joe Frost	CITY OF BOZEMAN	242	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 2/3/93

~~SENATE~~ House COMMITTEE ON _____

BILLS BEING HEARD TODAY: SUB DIVISION

Name	Representing	Bill No.	Check One: Support	Oppose
Dave Gallo	Self	HB 242	X	
Jim Nugent	City of Missoula	HB 208 458	X	~~X~~
Kathy Macefield	City of Helena	242 408	X	
Blake Wordal	Lewis & Clark County	242 408 280	X	X
Jay Spivey	Self	242 218 280	X	X
Sally Hale	Lewis & Clark	Senate Bill	X	
Steve Hatbaly	FBIC	HB 280		✓
J. Lawrence McCoy	a/c Helena Ed	HB 242	X	
Bob Stephens	Mt. Grain Growers Assn	280	X	
John Bloomquist	Mt. Stockgrowers Assn.	[redacted]	280	280 242 408
Brian McNitt	MEIC	280	X	
Jerry Otto	Self	280		
W. Spilker	Self	242 218 280	X	X
DAVE WANZENRIED	4047	242	✓	
[illegible] Brunner	MWRA	250	X	
Bob Barrie	MAPA	242	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

TE 2/3/93

ATE COMMITTEE ON Subdivision Bill

LS BEING HEARD TODAY: HB 280, 242, 408, 218

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
ay Landry	Montana Trout Unlimited	218 ~~280~~ 408 242	X	
y Landry	Montana Trout Unlimited	280	with amendments	
d J. Dewey	MT Dairymen's Assn.	280	X	
d J. Dewey	" " "	242 408, 218		X
Ted Hurbly	ERDO Flathead	408		
BARA BENNETTS	BENNETTS AGENCY Real Estate	408	X	
Dennis Olson	NPRC	HB 218 408 242 280	X	
llen MAY	N/A	218, 242 ~~408, 280~~	X w/Amend	

VISITOR REGISTER

LEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

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MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **DICK KNOX, CHAIRMAN**, on February 13, 1993, at 3:00 pm.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Rolph Tunby, Vice Chairman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Russ Fagg (R)
Rep. Gary Feland (R)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Hal Harper (D)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Howard Toole (D)
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Roberta Opel, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Executive Action: HB 457, HB 374, HB 280, HB 408
HB 218, HB 242, HB 318, HB 380

EXECUTIVE ACTION ON HB 457

Discussion: The committee discussed the pros and cons of this legislation.

Motion/Vote: **REP. GILBERT MOVED HB 457 BE TABLED.** The motion carried on a voice vote.

Motion/Vote: **REP. GILBERT MOVED TO TABLE HB 318.** The motion carried on a voice vote.

EXECUTIVE ACTION ON HB 280

Discussion: **REP. GILBERT** stated the subdivision subcommittee recommended the committee pass two bills: HB 280, and a committee bill, entitled HB 408. He added there were some suggested amendments for both pieces of legislation.

Michael Kakuk explained the amendments to HB 280. **EXHIBIT 4**

Motion/Vote: **REP. GILBERT** moved the amendments to HB 280. Motion carried.

Motion/Vote: **REP. GILBERT MOVED HB 280 DO PASS AS AMENDED.** Motion carried.

EXECUTIVE ACTION ON HB 408

Discussion: **Michael Kakuk, legal counsel,** explained the intent and purpose of the amendments to HB 408 and fielded questions from the committee. The committee further discussed alternatives and compromises to the legislation.

Motion/Vote: **REP. FAGG** moved the amendments to HB 408. The motion carried unanimously.

Motion: **REP. HARPER** moved amendments to the bill. **EXHIBIT 5**

Discussion: The committee discussed ramifications of the amendments.

Vote: The amendments failed on a 7 to 10 roll call vote.

Motion/Vote: **REP. HARPER MOVED HB 408 DO PASS AS AMENDED.** Motion carried.

EXECUTIVE ACTION ON HB 242 & HB 218

Motion: **REP. HARPER MOVED TO TABLE HB 242 AND HB 218.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 318

Motion/Vote: **REP. HARPER** moved to reconsider HB 318. The motion carried.

Motion/Vote: **REP. HARPER MOVED HB 318 DO PASS AS AMENDED.** The motion carried.

HOUSE STANDING COMMITTEE REPORT

February 15, 1993

Mr. Speaker: We, the committee on Natural Resources report that House Bill 408 (first reading copy -- white) do pass as amended .

Signed: _____
Dick Knox, Chair

And, that such amendments read:

1. Title, line 7.
Following: "LIMITATION;"
Insert: "MODIFYING THE FAMILY SALE EXEMPTION;"

2. Title, lines 8 and 9
Strike: "LIMITING" on line 8 through "SUBDIVISIONS;" on line 9

3. Title, line 10.
Strike: "76-3-605,"

4. Page 4, line 18.
Following: "(14)"
Insert: "(a)"

5. Page 4, line 20.
Following: "~~acres~~"
Insert: "containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section"

6. Page 5.
Following: line 1
Insert: "(b) A local governing body may increase or remove the 160-acre provision in subsection (14)(a) after:
(i) providing public notice pursuant to 7-1-4128 for a municipality or pursuant to 7-1-2121 for a county;
(ii) conducting a public hearing according to the procedures in 7-1-4131; and
(iii) following the procedures for the adoption of ordinances in 7-3-103."

7. Page 5, line 5.
Following: "~~which~~"
Strike: "that"
Insert: "containing less than 160 acres that cannot be described as a one-quarter aliquot part of a Unites States government section when the parcels"

8. Page 5, line 6.
Strike: ", and the"
Insert: ". The"

9. Page 5, line 21.
Following: "of a"
Insert: "single"
Following: "sale"
Insert: "in each county"
Following: "~~any~~"
Strike: "a"
Insert: "each"

10. Page 7, line 5 through page 8, line 9.
Strike: Section 5 in its entirety
Renumber: subsequent sections

11. Page 9, line 23.
Following: "of"
Insert: "legal and physical"

12. Page 10.
Following: line 1
Insert:

"NEW SECTION. Section 6. Coordination instruction. If House Bill No. 280 is passed and approved, then [this act] is void."
Renumber: subsequent sections

13. Page 10, line 3.
Strike: "5"
Insert: "4"

14. Page 10, line 5.
Strike: "6"
Insert: "5"

-END-

EXHIBIT 2
DATE 2-13-93
HB 408

Amendments to House Bill No. 408
First Reading Copy

Requested by Rep. Harper
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 13, 1993

1. Page 5.
Following: line 1
Insert: "(15) "Tract of record" means a parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office."

2. Page 10.
Following: line 1
Insert: "(4) The governing body may require the subdivider to design the subdivision to minimize potentially significant adverse impacts. The governing body and the developer may also agree upon reasonable mitigation measures."

BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ------- REREFERRED ---- DATE READ

HB0318	RICE, SHEILA		GENERAL REVISION OF THE CLEAN AIR ACT OF MONTANA			
	2/22	3/24		CONCUR AS AMENDED 3/27		3/30
HB0365	ROSE, JOHN		TETON RIVER BASIN CLOSURE			
	2/20	3/22		CONCUR AS AMENDED 3/23		3/24
HB0374	EWER, DAVID		WATER QUALITY ADMINISTRATIVE PENALTY			
	2/22	3/26		CONCUR AS AMENDED 3/27		3/30
HB0380	EWER, DAVID		AMEND AIR QUALITY PERMIT REQUIREMENTS FOR INCINERATORS AND BIF'S			
	3/01	3/05		CONCUR 3/5		3/06
HB0388	GILBERT, BOB		WATER QUALITY FEES			
	4/01	4/05		CONCUR 4/12		4/12
HB0393	WAGNER, DOUGLAS		REPLACING TIMBER STAND IMPROVEMENT FEES WITH A FOREST IMPROVEMENT FEE			
	2/16	3/10		CONCUR 3/10	TAXATION	3/12
HB0395	FOSTER, MIKE		BASIN CLOSURE -- UPPER MISSOURI RIVER			
	3/01	3/22		CONCUR AS AMENDED 3/23		3/24
HB0408	FAGG, RUSSELL		GENERALLY REVISE THE MONTANA SUBDIVISION AND PLATTING ACT			
	2/22	3/19		CONCUR 3/26		3/27
HB0417	TUNBY, ROLPH		AUTHORITY FOR ADMINISTRATIVE PENALTIES FOR UNDERGROUND TANK VIOLATIONS			
	2/20	3/08		CONCUR 3/12		3/16
HB0419	GRADY, ED		HAZARDOUS WASTE ADMINISTRATIVE PENALTY			
	3/01	3/26		CONCUR AS AMENDED 3/27		3/30
HB0423	GILBERT, BOB		CLARIFYING THE PETROLEUM TANK RELEASE BOARD'S HEARING REQUIREMENTS			
	2/20	3/24		CONCUR 3/26		3/27
HB0442	KNOX, DICK		GENERALLY REVISING THE METAL MINE RECLAMATION ACT			
	2/20	3/17	3/26	CONCUR AS AMENDED 3/29		3/30

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chair Bianchi, on March 19, 1993, at 3:20 p.m.

ROLL CALL

Members Present:
Sen. Don Bianchi, Chair (D)
Sen. Bob Hockett, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Ed Kennedy (D)
Sen. Bernie Swift (R)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)
Sen. Cecil Weeding (D)
Sen. Jeff Weldon (D)

Members Excused: None.

Members Absent: None.

Staff Present: Paul Sihler, Environmental Quality Council
Leanne Kurtz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 280, HB 408
Executive Action: None.

HEARING ON HB 280

Opening Statement by Sponsor:

Representative Bob Gilbert, HD 22, said HB 280 generally revises the Montana Subdivision and Platting Act in its entirety. He said the bill is designed to replace a statute that has caused many problems since its 1973 inception. Representative Gilbert discussed the definitions in Section 2, including agricultural producer, minor and major subdivisions, property rights, and agricultural exemptions. He said there were concerns that someone could submit a mining claim and turn it into a

HEARING ON HB 408

Opening Statement by Sponsor:

Representative Russell Fagg, HD 89, said the House Natural Resources Committee incorporated the best parts of two other subdivision bills in the drafting of HB 408. He said HB 408 removes the "applause meter" by taking out the public interest criteria, the basis of need criteria, and the expressed public opinion criteria. Representative Fagg said the "applause meter" is the single biggest objection that realtors and developers have to the current subdivision law. He stated HB 408 removes the occasional sale exemption, increases the 20 acre exemption to 160 acres, and changes the family sale exemption so that "anybody can make one family sale per family member per county." Representative Fagg directed the Committee members to a handout explaining HB 408 (Exhibit #8A). He said he has been contacted by several groups requesting amendments for HB 408, but added he opposes any amendments because the bill is the result of a delicate compromise.

Proponents' Testimony:

Note: several individuals expressed support for HB 408 during their testimony on HB 280.

Representative Emily Swanson, HD 79, said HB 408 incorporates the best parts of her subdivision bill, Representative Fagg's bill and Representative Brandewie's bill. She said HB 408 is a clean, simple approach. Representative Swanson said Gallatin County is one of the fastest growing areas in Montana, and subdivision reform was among the top three concerns of residents during her campaign. She said HB 408 closes loopholes in the current law, but the majority of the existing law works. Representative Swanson said HB 408 had the support of 80% of the House on third reading.

Alec Hansen, Montana League of Cities and Towns, discussed the loopholes in current subdivision law and submitted testimony from the City of Missoula (Exhibit #9).

Steve Powell, speaking on behalf of the Ravalli County Commission and the Association of Counties, discussed Missoula's Linda Vista subdivision, which is experiencing water quality deterioration as a result of contamination from septic systems. He said this is the sort of problem subdivision review is aimed at preventing. Mr. Powell stated HB 408 will not eliminate land divisions, it will simply subject them to a local review process. He discussed the relationship between local governing bodies and planning boards, stating that the Ravalli County Commission recently reversed a recommendation by the local planning board that a subdivision be denied because there was not adequate rationale.

He said the commissioners will only deny a subdivision project for very good reasons because they will be held accountable and could be taken to court.

Kelly Flaherty, Canyon Creek resident, member of the Lewis and Clark County Consolidated Planning Commission and member of Montana Cattlewomen, said she is seeing more and more agricultural land taken out of production as a result of unreviewed subdivisions. Ms. Flaherty stated HB 408 clearly addresses problems with the current law.

Blake Wordal, Lewis and Clark County Commissioner, stated in the last 3 months, 250 parcels of over 20 acres have been proposed for creation in Lewis and Clark County through Certificates of Survey. He said this week, 73 deeds for parcels of 20 acres have been filed in the clerk and recorder's office.

Sherm Janke, Montana Chapter of the Sierra Club, stated HB 408 is similar to SB 261. He discussed the various groups that support HB 408, and stated it would be beneficial to insert language addressing the effects of taxation [illegible].

Lisa Bay, Lewis and Clark County Conservation District, said the District unanimously passed a resolution to advocate subdivision reform, and said she hopes the Committee recognizes the broad coalition that supports HB 408.

Everett Steiger, chairman of the Tri-County Wildland/Urban Interface Fire Working Group, expressed the group's support for HB 408.

Paul Roos, an outfitter and member of the Blackfoot Chapter of Trout Unlimited, said the current subdivision law is not working. He noted it will be difficult to quantify what has happened to Montana's water quality from non-point sources of pollution caused by unplanned development.

Ted Lange, Northern Plains Resource Council (NPRC), said HB 408 effectively closes loopholes in the current law without rewriting the law. He said HB 280 may create serious new problems and loopholes.

Tonia Bloom, League of Women Voters, read from prepared testimony (Exhibit #10).

Peggy Munos, League of Women Voters, read from prepared testimony (Exhibit #11).

Stan Bradshaw, Montana Trout Unlimited, said he concurs with the testimony of Paul Roos, adding he likes the simplicity of HB 408. Mr. Bradshaw submitted a letter from Ric Smith, a Polson realtor (Exhibit #12) in favor of HB 408.

George Schunk, representing the Office of the Attorney General,

stated he supports all three subdivision bills before the Legislature, as they seek to remedy the problem of unreviewed land divisions and occasional sale exemptions. Mr. Schunk discussed the attorney general's role in subdivision litigation, and said the Department of Justice urges the Legislature to pass a subdivision reform bill this session.

Horace Brown, Missoula County Surveyor, stated he supports both HB 280 and HB 408.

Steve Heberly, planning director, Flathead Regional Development Office, said unreviewed land division is the major problem, adding over 6,600 lots have been approved since passage of the Subdivision and Platting Act. Mr. Heberly stated HB 280 is bad public policy, as it will "turn the process upside down" and take the impetus off developers.

Sharon Stratton, Flathead County Commissioner, said she supports HB 408 and opposes HB 280.

Brooks Martin, Bozeman resident, urged the Committee to support HB 408.

Janet Ellis, Montana Audubon Legislative Fund, expressed support for HB 408.

Brian McNitt, MEIC, expressed support for HB 408.

Jim Richard, Montana Wildlife Federation and Montana Association of Planners, read from prepared testimony (Exhibit #12A), and submitted letters from the Park County Attorney (Exhibit #12B) and the Gallatin County Commissioners (Exhibit #12C).

Lawrence Gallagher, City of Kalispell, expressed support for HB 408.

Kathy Macefield, planning director, City of Helena, read from prepared testimony (Exhibit #13).

Don Spivey, Columbia Falls resident, member of the Flathead County Planning Board, and representing Citizens for a Better Flathead, said he supports HB 408 and opposes HB 280.

Handouts from the Greater Yellowstone Coalition were distributed at the hearing (Exhibits #13A and #13B).

<u>Opponents' Testimony</u>:

Note: several individuals expressed opposition to HB 408 during their testimony in support of HB 280.

Steve Mandeville, legislative chairman, Montana Association of Realtors (MAR), stated the Association unanimously opposes HB

408. He said MAR supports a strong, well-defined subdivision law that is simple, understandable and able to streamline the review process. Mr. Mandeville said MAR believes the public interest criteria must be removed before objectivity can be reached in the process.

Tom Hopgood, Montana Association of Realtors, stated the Association opposes HB 408, and clarified that MAR has placed no advertisements in any newspapers regarding the subdivision issue.

Dan McGee, Montana Association of Registered Land Surveyors (MARLS), said Montana must have a subdivision law "that is clear on the face as to the requirements and responsibilities of the developer and the local government." Mr. McGee said the criteria and procedures should be clearly definable, assuring compliance on behalf of the developer and the local governing body. He stressed the importance of distinct legislative intent in passage of a subdivision law. Mr. McGee stated MARLS supports the kind of comprehensive planning referred to by Steve Powell, adding he is concerned about giving too much control to local governments.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Swysgood asked Mr. McGee which subdivision bill he prefers. Mr. McGee said he prefers HB 280 because it addresses park requirements and provides comprehensive regulation that would be uniform from county to county.

Senator Doherty asked Representative Fagg why the criteria dealing with effects on taxation was deleted. Representative Fagg said that criteria was not looked at very often and county commissioners have had difficulty getting a handle on taxation. He said local services are still addressed in the bill, adding he hopes that language will allay Mr. Janke's concerns about taxation.

Senator Doherty asked if it was Representative Fagg's intent that the phrase "local services" would deal with effects on taxation. Representative Fagg said that is his intent.

Senator Bianchi asked Mr. Roos to elaborate on his concern about groups of people buying large tracts to subdivide. Mr. Roos said he has overheard clients discussing plans to band together to buy large pieces of land. He said he wondered if there would be potential for a large group of people to skirt the intent of HB 408 by buying 160 acres or more and, without a transfer of deed, build a number of recreational homes on it. Representative Fagg

stated Mr. Roos' concern would be a planning problem, not a subdivision issue.

Senator Weeding asked Representative Swanson if rights of property owners have been addressed in HB 408. Representative Swanson stated landowners had expressed concern primarily about family conveyance and a clear definition of "tract of record". She said an enumeration of property rights was not as much of a consideration to agricultural groups as family conveyance.

Senator Grosfield asked Representative Fagg why he is concerned about amending HB 408 and sending back to the House for approval. Representative Fagg discussed lobbying pressures and possible retaliation in the House for actions the Senate has taken on unrelated House bills.

Senator Swysgood said he thinks Representative Fagg may be trying to "hamstring" the Committee, adding he objects to having to accept the bill as is if the Committee thinks changes may be in order. Representative Fagg stated he would support an amendment if the Committee truly feels it would improve the bill, but added he thinks HB 408 would stand a good chance of dying if it goes back to the House.

Senator Bianchi said he thinks minor amendments could be made, as only the amendments would return to the House, not the entire bill.

Senator Doherty discussed the difficulty in getting public interest criteria in the 1973 subdivision bill, and asked Representative Fagg what he would think about inserting that provision. Representative Fagg stated reinserting the public interest criteria would upset the delicate balance of HB 408.

Closing by Sponsor:

Representative Fagg emphasized the cross section of support for HB 408, and said loopholes in the current law need to be closed. Representative Fagg discussed his negotiations with the Billings realtors, who refused to support HB 408 because they were adamantly against doing away with exemptions. He said HB 408 is a simple bill that directly addresses the current problems, and cautioned the Committee that HB 408 could be killed in its entirety on third reading in the House.

ADJOURNMENT

Adjournment: 6:50 p.m.

Don Bianchi
SENATOR DON BIANCHI, Chair

Leanne Kurtz
LEANNE KURTZ, Secretary

DB/lk

ROLL CALL

SENATE COMMITTEE Natural Resources DATE 3/19/93

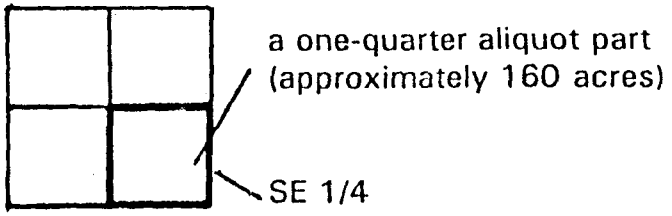
NAME	PRESENT	ABSENT	EXCUSED
Sen. Bianchi	✓		
Sen. Hockett	✓		
Sen. Bartlett	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Keating	✓		
Sen. Kennedy	✓		
Sen. Swift	✓		
Sen. Suvsgood	✓		
Sen. McClernan	✓		
Sen. Treit	✓		
Sen. Weeding	✓		
Sen. Weldon	✓		

FC8

Attach to each day's minutes

- *Changing* the 20-acre definition of subdivision to 160 acres will remedy the great proliferation of large unreviewed parcels. Where developers have been able to find some market for 20-acre parcels, the cost of 160 acre parcels will be high enough that virtually no market will exist, and thus economics will prevent widespread creation of 160 acre parcels just to avoid review. Also, parcels of 160 acres almost always will be agricultural in character, and rarely would cause the kind of problems contemplated by the subdivision law.

- The new definition refers to a "one-quarter aliquot part of a United States government section." The diagram below shows a government section divided into four quarter sections, called one-quarter aliquot parts. The highlighted aliquot part, which means one of equal parts, is referred to as the SE 1/4 of the government section.



- Two of the present eight public interest criteria are "basis of need" and "expressed public opinion." By deleting these two criteria, **HB 408** will remove some of the subjectivity of the current review process by adding more certainty for subdividers.

- Landowners will be able to transfer their property to heirs in increments without review by using the family conveyance exemption in combination with the current exemptions for agriculture and relocation of a common boundary.

HB 408: TRUE SUBDIVISION REFORM

EXHIBIT NO. 9A
DATE 3/19/93
BILL NO. HB 408

Montanans have become aware that reform of the Montana Subdivision and Platting Act is greatly needed. The 20-acre definition of subdivision, and the "occasional sale" and "family conveyance" exemptions have allowed vast acreage of land to be divided without local government review. The resulting unplanned, haphazard land development creates adverse impacts in many forms, as described on the following pages.

HB 408 provides a balance by not only addressing the problems of the exemptions, but also by streamlining the review process for subdividers by removing some subjectivity from the review criteria.

Specifically, **HB 408**:

- Changes the 20 acre definition to 160 acres or a one-quarter aliquot part of a section;
- Eliminates the "occasional sale" exemption;
- Limits the "family conveyance" exemption to a single gift of land in each county to each family member;
- Changes the public interest criteria by deleting the criteria for basis of need, expressed public opinion, and effects on taxation;
- Defines "tract of record"
- Requires provision of easements for future utility expansions;
- Requires provision of <u>legal</u> and <u>physical</u> access to each parcel.

PROBLEMS CREATED BY EXEMPTIONS

The exemptions from local government review have resulted in haphazard unregulated land development that creates a number of problems for citizens, taxpayers, lot buyers, farmers and ranchers, and local governments:

- **Problems for farmers and ranchers:** heavy traffic on rural roads: interference with movement of livestock and farm machinery; complaints about noise and odors from normal agricultural activities; interference with fence maintenance, irrigation systems; increased incidents of trespass; spread of noxious weeds; increased nuisance by dogs and people.

- **Increased public costs (taxes):** new development increases the costs of maintaining and upgrading roads, providing police and fire protection, ambulance service, weed control without a corresponding increase in tax revenues. Average cost of county services per household is $770, while county tax revenues from a new house and lot are approximately $250. Planned, orderly growth can reduce this fiscal shortfall on residental property that agricultural, commercial and industrial properties must pick up.

- **Problems with roads and access:** steep grades, sharp curves and blind intersections; increased accidents, dust and road deterioration; poor design and construction; high maintenance costs; inadequate or improperly installed culverts, poor drainage; lack of legal access, lack of easements for roads or utilities.

- **Effects on wildlife:** loss of wildlife habitat, winter range, calving areas, riparian areas; loss of traditional access for hunting and fishing; increased conflicts between humans and wildlife.

- **Spread of weeds:** roads and increased vehicle use will accelerate spread of weeds; idle parcels and improperly constructed facilities and unreclaimed disturbed areas foster weed growth;

These problems can be prevented though effective local government review. Passage of HB 408 would give local government the authority to conduct proper review -- and thus to ensure that proposed land developments result in well designed, functional, livable residential neighborhoods that minimize costs to taxpayers.

A BROAD SPECTRUM OF CITIZENS SUPPORT HB 408

Agriculture. The Montana Stockgrowers Association, Montana Dairymen's Association and other ranchers and farmers support HB 408 because it addresses the problems haphazard development create for agriculture. Importantly, farmers and ranchers will be able to implement estate planning by using the family conveyance exemption in combination with the existing exemptions for agriculture and relocation of a common boundary.

Local Government. City and county elected officials, local planners, rural fire fighters, disaster and emergency service providers support HB 408 because expanded local services could be more effectively provided, and at less cost to taxpayers.

Conservationists. Sportsmen, wildlife advocates and other conservationists favor HB 408 to protect habitat, water quality, and fishing, hunting and recreation access.

Property rights. Realtors, surveyors and developers raise property rights as an argument against subdivision reform. The 5th Amendment of the U.S. Constitution and Article II of the Montana Constitution unequivocally protect private property rights. HB 408 does not affect property rights, nor prohibit subdivision; it simply requires that development occur in a responsible manner.

MISSOULA
OFFICE OF THE CITY ATTORNEY
435 RYMAN • MISSOULA, MT 59802-4297 • (406) 523-4614

March 18, 1993

SENATE NATURAL RESOURCES
EXHIBIT NO. 9
DATE 3/19/93
BILL NO. HB 408

93-112

Senate Natural Resources Committee
Montana State Legislature
Capitol Station
Helena, Montana 59620

RE: HB-408 REVISING MONTANA SUBDIVISION AND PLATTING ACT

Honorable Senate Natural Resources Committee:

The City of Missoula and Montana League of Cities and Towns have adopted resolutions urging the repeal of the current broad family transfer and occasional sale subdivision exemptions.

The use of subdivision exemptions in urban areas generally results in avoidance of any park land dedication, undedicated unpaved roads that contribute to air pollution and construction of residences that pollute the aquifer with sewage because they are not connected to municipal sanitary sewer systems.

City of Missoula officials would urge amendment of HB-408 so that the family exemption is repealed and Section 76-3-204 MCA be amended to reinstate 40 Montana Attorney General Opinion No. 57 (1984) holding that:

> A developer's construction of 48 four-plexes, to be used as rental occupancy buildings, on a tract of land owned by the developer is a "subdivision", and consequently must be submitted for local review under the Subdivision and Platting Act.

The 1985 Montana State Legislature negated this attorney general opinion by amending Section 76-3-203 MCA to its current language. A development with 48 four-plexes would have a substantial impact on all government services and should be subject to subdivision review. Enclosed is a March 25, 1991 memorandum to City officials from a City planner identifying a proposed '60 rental unit project involving several buildings which was not subject to subdivision review. The effect of the 1985 State Legislature's amendments to Section 76-3-204 MCA is to allow a significant and substantive subdivision exemption that allows avoidance of subdivision review for developments that obviously impact on government services.

Thank you for your consideration of these matters.

Yours truly,

Jim Nugent

Jim Nugent, City Attorney
cc: Mayor; City council; Alec Hansen; John Merrell; Barb Martens; Doris Fischer; Missoula county senators; Subdivision file

AN EQUAL EMPLOYMENT OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER M / F / V / H

MISSOULA CITY-COUNTY
MISSOULA

OFFICE OF COMMUNITY DEVEL
435
MISSOULA, MONTANA 598
(406)

3/27/91

TO: Jim Nugent, City Attorney

FROM: Barbara Martens, Planner II
Office of Community Development

Barbara Martens

DATE: March 25, 1991

RE: Informational Item: Property located at the southeast corner of the intersection of 39th Street and Hillview Way.

An individual has plans to and has discussed plans with the Office of Community Development Staff to construct two sixteen dwelling unit buildings, one twelve dwelling unit building and two eight dwelling unit buildings at the southeast corner of 39th Street and Hillview Way. This construction project would consist of sixty (60) dwelling units. The developer states that he will retain ownership of all the dwelling units and therefore would not trigger statutory subdivision review.

As you will recall in our previous discussions with Rich Weddle, Attorney for the Department of Commerce, Rich Weddle informed us that Section 76-3-204 MCA would allow for the construction of these dwelling units, without requiring that they be reviewed through the subdivision process, so long as all units are retained in single ownership. This individual has stated directly that he intends to retain all units in single ownership. Other applicable regulations would still apply.

> Section 76-3-204 MCA. Exemption for conveyances of one or more parts of a structure or improvement. The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, is not a division of land, as that term is defined in this chapter, and is not subject of the requirements of this chapter.

The Staff of the Office of Community Development urged and encouraged that the developer consider the benefits of going through the subdivision process prior to constructing the units. Some of these benefits are 1). should the developer ever wish to sell any units, subdivision review will be necessary; and 2). if subdivision review occurs upfront possible delays or problems may be alleviated by addressing standards prior to construction, etc.

cc: Mayor Dan Kemmis
City Council Members
Chuck Stearns - Finance Officer/City Clerk
Mike Kress - Director of the Office of Community Development

March 19, 1993

TO: Senate Natural Resources Committee
FROM: Tonia Bloom for the League of Women Voters of Montana
RE: HB 280 and HB 408

On behalf of the League of Women Voters of Montana I would like to rise in support of the effort, exemplified by both the bills before you today, to eliminate the major exemptions to Montana's subdivision laws. The League has a long standing commitment to good land use planning and orderly growth and recognizes that these goals will not be possible until the existing subdivisions laws are reformed. For more than a decade the twenty acre exemption, the occasional sale exemption and the unrestricted family conveyence exemption have combined to create a pattern of land development in which up to 90% of land divisions are not subject to review.

Review is the ounce of prevention that prevents the pound of cure. In Montana we are piling up many pounds of cure which will have to be paid for by local taxpayers, as well as by many unwary individual landowners. It is neither good government, good planning nor good fiscal policy to allow the majority of land divisions in the state to go unreviewed for access, adequacy of roads, accessibility of fire protection, protection from hazards, the possibility of stream degradation or interference with existing irrigation rights.

Both HB 280 and HB 408 eliminate these major exemptions. HB 408 does so with minor changes in the review process to streamline minor subdivision review. HB 280 is a major rewrite of the Subdivision and Platting Act. The League of Women Voters urges you to support the simpler approach embodied in HB 408. We believe it is premature to alter the existing review process until we have had a chance to see how it works when it is applied to more than a minority of land divisions. We are also concerned that HB 280 may go too far in detailing local review criteria and upset the balance between state guidelines and local discretion. This will not work in a state as diverse as Montana with widely varying patterns and rates of land development.

We urge your support for HB 408 and for the elimination of the major exemptions to the laws.

SENATE NATURAL RESOURCES
EXHIBIT NO. 10
DATE 3/19/93
BILL NO. HB 280, HB 408

March 19,1993

To: Senate Natural Resources Committee
Senator Don Bianchi, Chairman

From: League of Women Voters of Ravalli County

Re: HB 408 and HB 280

The League of Women Voters of Ravalli County has followed land use and subdivision laws for over 20 years. Our first local study looked at how those issues impacted Ravalli County. We are now in the third year of updating positions taken in the early 70's.

The county is again experiencing a real estate boom and an influx of new residents, many of retirement age. The local paper almost weekly details the existing problems with rapid growth and the coming problems with growing school populations and increasing workloads for local governments. There is support for planning now that did not exist in the 70's.

The county planner is revising the old county plan which was really no plan at all. However, the best plan in the world will not make up for the de facto subdivision occuring through the exemptions in the law.

Our observations of the current situation in our county lead us to support HB 408 at this time. It is a simpler solution and the costs can be analysed for two years as each county goes through the change in procedure. The important thing is to stop the costly and ill-advised division by exemption of what is left of land in Ravalli County and Montana.

SENATE NATURAL RESOURCES
EXHIBIT NO. 11
DATE 3/19/93
BILL NO. HB 280, HB 408

Big Sky Real Estate
19 South Shore Route, P.O. Box 1037
Polson, Montana 59860
(406) 883-5201/Fax (406) 883-5389

March 19, 1993

Senator Bianchi
Senate Natural Resource Committee
Helena, Mt. 59601

Dear Senator Bianchi,

My name is Ric Smith. I am Broker/Manager of Century 21 Big Sky Real Estate in Polson, Montana. I had really hoped to attend the hearing in front of your committee today. Unfortunately I had obligations at my office that were unavoidable.

Montana needs subdivision reform now. We are in danger of losing what makes our state special, we are in danger of losing our quality of life. Reforming subdivision law in Montana will help insure Montana maintains the very qualities we all desire.

What is especially exciting to me is that this is not a "job versus the environment" issue. Subidivision reform is good for the business of Montana. Subdivision reform will allow property values to increase, subdivision reform will insure quality products for consumers.

Mr. Chairman, and ladies and gentlemen of this committee, once again I feel obligated to comment on the tactics of the Realtors. First of all, I am a Realtor. The behavior of my fellow Realtors is most embarrassing to me. Even if I were able to understand the philosophy of fighting subdivision reform, the tactics employed by the Realtors is quite disturbing. They have waged a campaign of disinformation and fear. The Realtors have once again chosen to avoid the issues. I have wondered where the many out of work KGB agents have gone. Having witnessed the Realtors anti-subdivision campaign, I now know the KGB is working for the Realtors in Montana. The Realtors do not represent myself and there are others who feel the same way.

I support HB 408. It is a balanced bill that adjusts the present law. I do not believe we need to completely rewrite the present law. We can solve the problem with subdivision reform with some adjustments.

Again, I apologize for not attending your hearing. Please support subdivision reform and I urge the passage of HB 408.

I appreciate your time.

Sincerely,

Ric Smith
Broker/Manager

RS/rec

SENATE NATURAL RESOURCES
EXHIBIT NO. 12
DATE 3/19/93
BILL NO. HB 408

TESTIMONY ON HB 408
before the Senate Natural Resources Committee
by JIM RICHARD
representing the
MONTANA WILDLIFE FEDERATION AND MONTANA ASSOCIATION OF PLANNERS

HB 408 is a balanced bill that not only addresses the problems of the exemptions, but also streamlines the review process for subdividers by removing some subjectivity from the review criteria.

POINTS

- Changing the 20-acre definition of subdivision to 160 acres will remedy the great proliferation of large unreviewed parcels. Where developers have been able to find some market for 20-acre parcels, the cost of 160 acre parcels will be high enough that virtually no market will exist, and thus economics will prevent widespread creation of 160 acre parcels just to avoid review. Also, parcels of 160 acres almost always will be agricultural in character, and rarely would cause the kind of problems contemplated by the subdivision law.

- Two of the present eight public interest criteria are "basis of need" and "expressed public opinion." By deleting these two criteria, HB 408 will remove some of the subjectivity of the current review process by adding more certainty for subdividers.

- Landowners will be able to transfer their property to heirs in increments without review by using the family conveyance exemption in combination with the current exemptions for agriculture and relocation of a common boundary.

- **Property Rights.** Realtors, surveyors and developers have always raised property rights as an argument against subdivision reform. The 5th amendment of the U.S. Constitution has protected private rights of Americans for 200 years. Article II of the Montana Constitution and its predecessor clause in the original state Constitution have protected Montanan's property rights for 100 years. The constitutionality of the Montana Subdivision and Platting Act has been upheld by the Montana Supreme Court.

HB 408 does not diminish property rights. It simply requires that development occur in a responsible manner.

Realtors, surveyors and developers are not concerned about property rights. They are only interested in protecting their opportunities to do slipshod, unreviewed development that passes the real costs on to lot buyers and the taxpayers.

SENATE NATURAL RESOURCES
EXHIBIT NO. 12A
DATE 2/19/93
BILL NO. HB 408

• **Comprehensive Planning as a substitute for subdivision reform.** The argument by realtors and surveyors that comprehensive planning and zoning is a better alternative than subdivision reform is the height of hypocrisy. Real estate and development industry has been the single greatest barrier to enacting effective local comprehensive plans in Montana. They have rarely, if ever, supported local efforts to adopt land use plans, and time after time have spearheaded opposition to local planning. It is irresponsible and unethical for these people to advance comprehensive planning as a substitute for subdivision reform when they have worked so vigorously against local planning efforts.

Park County Attorney

Wm. Nels Swandal Tara DePuy Deputy Jon M. Hesse Deputy

414 East Callender — Livingston, MT 59047
Telephone: (406) 222-6120 ext. 239

March 17, 1993

Senator Don Bianchi, Chairman
Senate Natural Resources committee
State Capitol
Helena, MT 59620-1702

Re: Support for HB 408

Dear Senator Bianchi:

As county attorney and as an individual with interests in agriculture in Park County, I urge your committee's support for HB 408. HB 408 is a balanced bill which not only addresses the problems of the current exemptions contained in the law but also streamlines the review process for subdividers. This bill represents the best hope of preserving agricultural land, giving local governments the ability to control the costs associated with uncontrolled development, and protecting buyers while not unduly restricting private property rights.

While I strongly support HB 408, I oppose HB 280. A major rewrite of the existing law is not necessary to correct the problems we now have. As you are aware, HB 280 would negate years of case law and Attorney General's Opinions. Further, language in the bill places significant legal and liability burdens on local governments. Local taxpayers should not have to shoulder additional burdens.

I appreciate the effort you and your committee have made to provide subdivision reform for Montana.

Sincerely,

WM. NELS SWANDAL
Park County Attorney

wns/la

SENATE NATURAL RESOURCES
EXHIBIT NO. 12 B
DATE 3/19/93
BILL NO. ~~SB~~ HB 408

State of Montana

County of Gallatin

Bozeman

March 19, 1993

Dear Chairman Bianchi and Members of the Senate Natural Resources Committee:

The Gallatin County Commission strongly supports House Bill 408. The time for subdivision reform is now and this is the bill that accomplishes it most simply.

Since 1973, 108,425 acres of land have been divided without review in Gallatin County. These unreviewed divisions have caused higher road maintenance costs, negative impacts on agricultural operations, increased costs to taxpayers, proliferation of noxious weeds and heightened wildfire danger.

We urge you to vote favorably and pass HB 408 on to the full Senate.

GALLATIN COUNTY COMMISSIONERS

A. D. Pruitt, Chairman

Deb Berglund, Member

Jane Jelinski, Member

SENATE NATURAL RESOURCES
EXHIBIT NO. 12 C
DATE 3/19/93
BILL NO. HB 408

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Commissioners
Kay McKenna, Mayor
Margaret Crennen
Tom Huddleston
Colleen McCarthy
Mike Murray

William J. Verwolf
City Manager

City-County
Administration Building
316 North Park
Helena, MT 59623

Phone: 406/447-8000

City of Helena

March 19, 1993

Mr. Chairman and Senators:

My name is Kathy Macefield and I am the planning director for the City of Helena. I am supporting HB 408 on behalf of the City of Helena.

As a city planner, I am concerned about how the land surrounding the city is divided and developed, and the ability to grow in an orderly manner that's cost-effective for the taxpayers -- in both the short-term and the long-term. A city or county can adopt a comprehensive plan that identifies how and where its future growth is desired; however, good subdivision laws are needed to help implement the plan.

Subdivision review means facilitating the division and development of land in a responsible manner that is not harmful to the environment or to the property owner. With subdivision review, how the land development will affect wildlife, agriculture, public health and safety, and the environment can be considered.

Subdivision review also provides a way to address how the adjacent property owners will be affected, including how and where roads will be constructed and connected, how stormwater drainage will be accommodated so the downhill neighbor is not flooded, and how fire protection will be provided to limit the potential for spreading fire for example. The future buyer of the subdivided property will know who maintains the road serving the lot, whether or not water and sewer can be provided, how close the school bus travels to the area, and what the plans are for the rest of land in the subdivision.

As a technical point, sanitary review only addresses whether or not a septic system and replacement field, or if public sanitary sewer service, can be installed to serve the property. These other development issues are not addressed during sanitary review.

HB 408 increases the size threshold and eliminates the occasional sale which are the two largest problems or loopholes in the existing law. HB 408 provides simple amendments to existing law to correct the problems and benefits Montana's citizens.

I ask you to please pass HB 408 as it has been submitted to you. Thank you.

Sincerely,

Kathy Macefield

Kathy Macefield

SENATE NATURAL RESOURCES
EXHIBIT NO. 13
DATE 3/19/93
BILL NO. HB 408

Greater Yellowstone Coalition

SENATE NATURAL RESOURCES
EXHIBIT NO. 13A
DATE 3/19/93
BILL NO. HB 404

Honorable Members of the Committee,

The unregulated sprawl of subdivision development in Montana will have long-term, irreversible effects on the landscape, on our quality of life and on our community well-being.

The Greater Yellowstone Coalition has been monitoring development trends in Greater Yellowstone for ten years. Of the landscape changes we have documented, perhaps none is more startling than the speed at which subdivisions are gobbling up open space and agricultural lands. In the five counties that make up the Montana portion of the Ecosystem, over half a million acres have been subdivided into tracts of 200 acres or less. In 1991, during a two week period, more than 5,000 acres were subdivided into 20 and 40 acre parcels in Park and Gallatin counties. Many of these subdivisions are located on prime agricultural lands, in critical wildlife habitats, or in areas of high scenic value.

It is not difficult to predict the impact that these developments will have on the future of agriculture. Gallatin county for example, lost 23% of its farmlands to subdivision in the past two decades. Noxious weeds are becoming firmly established on postage stamp ranchettes and are spreading to neighboring farms. And agricultural operations are increasingly becoming the target of complaints by transplants from more urban areas.

Subdivisions seriously threaten our wildlife heritage. Rural private lands encompass winter range essential for the survival of elk, deer and pronghorn. For example, 25% of Yellowstone Park's northern elk herd winters on private lands. Private lands harbor other important habitats such as riparian corridors and wetlands. Sixty-two plants and animals that the Nature Conservancy considers to be "sensitive" species in Greater Yellowstone, are found on private lands. These are the same areas being sliced and diced into rural subdivision.

Unregulated subdivision is also hard on the wallet. Besides the loss agricultural revenue, the fiscal and economic impacts of rural sprawl can be disastrous for communities. Leap frog development characterizing many of these subdivisions requires substantial and perpetual expenditures of scarce tax dollars. This includes the construction, maintenance and plowing of roads, expansion of schools and other financially draining services.

Population growth rates in the counties of Greater Yellowstone are literally some of the highest in the nation. We need to prepare ourselves to effectively manage that growth. Reforming the subdivision law is absolutely essential:

P.O. Box [illegible] Bozeman, Montana 59771 (406) 586-1593 FAX (406) 586-0851

• Remove the 20 acre exemption. Reviews should also occur for platted and unplatted unsold land.
• Remove the occasional sale exemption.
• And tighten the family conveyance provisions.

This and future generations will thank you for doing so.

Sincerely,

Dennis Glick
The Greater Yellowstone Coalition

SENATE NATURAL RESOURCES
EXHIBIT NO. 13B
DATE 3/19/93
BILL NO. HB 404

THE FISCAL AND ECONOMIC IMPACTS OF LOCAL CONSERVATION AND COMMUNITY DEVELOPMENT MEASURES

A Review of the Literature

Commissioned by the

Greater Yellowstone Coalition

P.O. BOX 1874 • BOZEMAN MT 59771 • (406)586-1593

The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

Luther Propst *Executive Director* and Mary Schmid
The Sonoran Institute, Tucson, Arizona
February 20, 1993

DATE 3/19/93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Everett M "Sonny" Stiger	Tri-County Fire Group	408	✓	
Janice Horner		408		✓
Darye Horner		408		X
ANDREW EPPLE	BOZEMAN CITY-COUNTY	408	✓	
Jerry A. Wilkerson	Self	408	✓	~~✓~~
Tonia Bloom	League of Women Voters of Montana	280		✓
Tonia Bloom	"	408	✓	
Peggy Muntz	League of Women Voters of Ravalli Co.	408	✓	
Peggy Muntz	"	280		✓
Kirven Hanes	SJS	280 408	✓	
Kathy Macefield	City of Helena	408	X	
Kathy Macefield	City of Helena	280		X
Janet Ellis	MT Audubon Leg Fund	280 408	X X	
ART WHITNEY	MT CHAPTER OF AM. FISH. SOC.	280 408	X	X
Joe Brandon	Stillwater County	408	X	
Steve Powell	MACo - Ravalli County	408	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F1C

DATE 3/19

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
W^m Spilker	Self	HB 280 HB 408	X	X
D Sowers	SELF + CFEF	408 280	X	X
SHERM JANKE	MONTANA CHAP. SIERRA CLUB	408	U	
Marianne Yonkee	self	all	✓	
Kelly FLAHERTY	MT. CATTLEWOMEN SELF	280 408	X	X
Jerry Hamlin	self	HB 280 HB 408	X	X
Dave O'Leachy	SELF	208		
Lawrence Gallagher	City Kalispell	408 ~~308~~	X	X
Tom Hopgood	Mt. Assoc. Realtors	408		✓
[illegible]	MMIA	408	✓	
Ted Doney	MT. Dairymen's Assn.	408 280	X	
Pat Stephens	Mt. Farm Bureau Fed.	408 280	X	
Ken Miller	MT. Wood Products Assn	280 408	X	X (Amend)

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F1C

DATE 3/17/93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
CHRISTINE MANGHANTINI	League of Wm. Voters	280		X
CHRISTINE MANGHANTINI	League of Wm. Voters	408	X	
TOM MURI	Former City Atty	408	X	
Tom Muri	Whitefish	261	X	
Tom Muri		280		X
Sharon L. Stratton	Flt'd Co Commissioner	408 + 280	X	X
Donna Maddux	City of Whitefish	408	X	
" "	" " "	280		X
Steve Herbaly	Flathead Rec Dist	280		✓
" "	" " "	408	X	
Jim Richey	MT Wildlife Fed MT Audubon Council	408 281	X	X
Dean Stratton	Self	280/408		X
Becky Donaldson	Self	280	X	
Richard L. KERR	"	408 280		X
HORACE BROWN	Mich & County Chairman	408 280	X	
Dirk A. Mitchell	Flathead & Clark County	408 280	X	X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chair Bianchi, on March 26, 1993, at 3:17 p.m.

ROLL CALL

Members Present:

Sen. Don Bianchi, Chair (D)
Sen. Bob Hockett, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Ed Kennedy (D)
Sen. Bernie Swift (R)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)
Sen. Cecil Weeding (D)
Sen. Jeff Weldon (D)

Members Excused: None.

Members Absent: None.

Staff Present: Paul Sihler, Environmental Quality Council
Leanne Kurtz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 374, HB 419, HB 448, HB 571, HB 592
Executive Action:	HB 448, HB 571, HB 423, HB 512, HB 532, HB 442, HB 599, SJR 29, HB 408, HB 280, SB 401

HEARING ON HOUSE BILL 374

Opening Statement by Sponsor:

Representative Ewer, House District 45, Helena, said House Bill 374 was introduced by request of the Department of Health and Environmental Sciences (DHES). The bill provides for an administrative penalty in the Montana water quality laws. This bill was amended on the floor and he said they would like to work

EXECUTIVE ACTION ON HOUSE BILL 408

Motion:

Senator Weldon moved House Bill 408 BE CONCURRED IN.

Substitution Motion:

Senator Swift moved House Bill 408 BE AMENDED (Exhibit #9).

Discussion:

Senator Swift said this amendment involves water facilities (Exhibit #9).

Chair Bianchi asked if he could give an example of water user facilities that are not agricultural. Senator Swift said currently there is a question regarding a couple of these subdivision bills which are in conflict with agriculture. He said irrigation districts deal with laterals, canals, or head gates and conflicts may arise from land splits. He said this would be a consideration in the review.

Senator Keating pointed out an example of a subdivision in Billings where there is a main canal, laterals, and a head gate.

Chair Bianchi said his question is why the broader term of agriculture would not cover those kinds of facilities.

Senator Hockett said an irrigation ditch certainly relates to agriculture and if this reasoning is carried on further then local services should be defined and you could list a whole host of things. He said he felt the amendment was unnecessary.

Vote:

The substitute motion to amend HB 408 (Exhibit #9) failed 5 members voting yes, 6 voting no, roll call vote.

Substitute Motion:

Senator Swift moved TO AMEND HB 408 (Exhibit #10).

Discussion:

Senator Swift explained the amendments to the Committee. He said this would give people who have non-agricultural property the same opportunity as those who have agricultural property.

Senator Bartlett said in her experience this generally occurs where there is not zoning. Senator Swift said this is in regard to the splitting of land and HB 280 and HB 408 allow tracts to be split if they are not being used for residential purposes. He wants the same consideration as in agricultural splits for other splits as well as long as they are not used for a domicile or residential purposes.

Senator Bartlett said she believed there are commercial purposes that would require water and sewer and have an impact that would be substantially different from agricultural land. Senator Swift said a division must be reviewed by law if used for domestic purposes which require septic systems.

Senator Bartlett said she could understand what Senator Swift was saying, but the particular sections Senator Swift wants to amend relate to the agricultural exemption. At the present time the statute says "a change in use of the land". She said she believes this amendment would limit that to be a change in the land to residential and would subject that change and that division to the provisions of the Subdivision and Platting Act. If one wanted to change to commercial, she said she believes it would not be subject to review under the Subdivision and Platting Act.

Senator Swift said if that seems to be too much of a sticking point the amendments can be segregated.

Motion:

Senator Swysgood MOVED TO SEGREGATE amendments #1, #6, #7 and #8 from the rest of the amendments.

Vote:

The vote on amendments #2, #3, #4 and #5, (Exhibit #10) FAILED with 4 voting yes, 7 voting no, roll call vote.

Discussion:

Senator Swift asked to withdraw his amendment rather than voting on #1, #6, #7 and #8 and revert to the original motion.

A letter from Michael S. Kakuk, Environmental Quality Council, in regard to HB 408 on the silviculture issue was given to the Committee (Exhibit #11). Chair Bianchi requested the letter become a part of the official record saying the intent of the Committee is that silviculture is also a part of agriculture. He asked for a vote from the Committee that this is the intent.

Motion/Vote:

Senator McClernan moved the letter be placed in the record and that the Committee go on record as saying agriculture is intended to include silviculture. Motion CARRIED.

Motion/Vote:

Senator Weldon moved House Bill 408 BE CONCURRED IN. Motion passed 8 yes, 5 no, roll call vote. Senator Doherty was assigned to carry the bill on the floor of the Senate.

DISCUSSION ON HB 280:

There was discussion on HB 408 and 280 as to whether both would be heard on the floor. Chair Bianchi indicated if 408 failed the Committee would discuss 280. Senator Swysgood asked the Chair to take action on HB 280 tonight.

Chair Bianchi said there are a lot of motions on HB 280 to be taken into consideration.

Motion:

Senator Swysgood moved the Committee take action on HB 280.

Discussion:

Senator Hockett said he interpreted Senator Swysgood's motion as one to appeal the ruling of the chair and he does not believe the Committee could debate the bill, only the motion.

Senator Weeding asked about the timing of sending HB 408 to the floor the next day. He asked if there would be time to get HB 280 out of the Committee. Chair Bianchi answered yes.

Senator Hockett asked if it was Chair Bianchi's intention to not discuss HB 280 if HB 408 receives favorable action in the Senate. Chair Bianchi said that was his intention since he believed there would be a lot of problems if both passed.

Senator Swift said there is a coordinating language in HB 408 which says if HB 280 passes it is void.

Mr. Sihler clarified that there is a coordinating instruction in Section 6 in HB 408 that says if both bills passed, then 408 is void.

Senator Swysgood said he would like to see both bills on the floor at one time since the language is coordinated.

SENATE STANDING COMMITTEE REPORT

March 27, 1993

MR. PRESIDENT:
We, your committee on Natural Resources having had under consideration House Bill No. 408 (third reading copy -- blue), respectfully report that House Bill No. 408 be concurred in.

Signed: Don Bianchi
Senator Don Bianchi, Chair

VLC Amd. Coord.
MW Sec. of Senate

Doherty
Senator Carrying Bill

690754SC.Sma

ROLL CALL

SENATE COMMITTEE Natural Resources DATE 3/26/93

NAME	PRESENT	ABSENT	EXCUSED
Bianchi	✓		
Hockett	✓		
Bartlett	✓		
Doherty	✓		
Grosfield	✓		
Keating	✓		
Kennedy	✓		
McClernan	✓		
Swift	✓		
Swysgood	✓		
Tveit	✓		
Weeding	✓		
Weldon	✓		

FC8

Attach to each day's minutes

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 408

DATE 3-24 TIME 6:58 A.M. P.M.

NAME	YES	NO
Chairman Bianchi		✓
Vice Chairman Hackett		✓
Sen. Bartlett		✓
Sen. Doherty		
Sen. Grosfield		
Sen. Keating	✓	
Sen. Kennedy		✓
Sen. McClernan		✓
Sen. Swift	✓	
Sen. Swysgood	✓	
Sen. Treat	✓	
Sen. Weeding		✓
Sen. Weldon.		✓
	4	7

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: Am # 2,3,4,5

On roll 10 failed

F09

Col

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 408

DATE 3-26-93 TIME _____ A.M. P.M.

NAME	YES	NO
Chairman Bianchi		✓
Vice Chairman Hackett		✓
Sen. Bartlett		✓
Sen. Doherty	absent	
Sen. Grosfield	absent	
Sen. Keating	✓	
Sen. Kennedy		✓
Sen. McClernan	✓	
Sen. Swift	✓	
Sen. Sunysgood	✓	
Sen. Treit	✓	
Sen. Weeding		✓
Sen. Weldon		✓
	5	6

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: Do Pass #9

ROLL CALL VOTE

Carried

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 408

DATE 3/26/93 TIME _____ A.M. P.M.

NAME	YES	NO
Chairman Bianchi	✓	
Vice Chairman Hackett	✓	
Sen. Bartlett	✓	
Sen. Doherty	✓	
Sen. Grosfield	✓	
Sen. Keating		✓
Sen. Kennedy	✓	
Sen. McClernan	✓	
Sen. Swift		✓
Sen. Sunysgood		✓
Sen. Treit		✓
Sen. Weeding		✓
Sen. Weldon	✓	
	8	5

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: _____

DATE 3/19

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Jerry L. Nelson	Self	280	W	X
J. ANDREW EFFLE	BOZEMAN CITY-COUNTY	280		X
LISA BAY	SELF/LEWIS CLARK CONS. DIST	408	X	
"	SELF	280		X
John Bauder	Stillwater County	280		X
Steve Brown	Mt Assn Realtors	408		X
Richard D. Ides	SELF	280		X
Richard D Ides	SELF	408	✓	
Brooks Martin, Bozeman	Self	280 408	X	X
DAN MCGEE	MARLS	280 408		X
Rick Fabian	Wildlife Federation	280	X	
Geo Schunk	MT Attorney General	280/408	X	
Ted Lange	Northern Plains Resource Council	408	X	
Stan Bradshaw	MT T.U.	408/280	✓	
Jim Nugent	City of Missoula	408/280	With Amendments	
Edward L. Flowers	MT Farm Bureau	408/280	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

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ENATE COMMITTEE ON Natural Resources

LLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Check One: Support	Oppose
Paul Ross	Paul Ross Outfitters Inc	280 408	✓	
Brian McNitt	MEIC	280 408	✓	
John Bloomquist	Mt. Stockgrowers	280 408	✓	
Marilyn Hoblitt	Mosquito, M	~~408~~ 280	✓	
Yolanda Bradshaw	self	408	✓	
Jennifer Bottomly	Self	408	✓	
Bob Hoffman. A.P.A	Ag. Pres. Assoc	408	✓	
Don Erickson	Self-	408		✓

VISITOR REGISTER

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C

DATE 3/19/93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 280 Gilbert HB 408 FAGG

Name	Representing	Bill No.	Check One Support	Oppose
Becky Shaw		280	X	
[illegible]		[illegible]		
[illegible]	[illegible]			
[illegible]				
[illegible]	[illegible]	280		X
[illegible]	[illegible]	280		X
[illegible]	[illegible]	280	X	

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DATE 3/19/93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 280 HB 408

Name	Representing	Bill No.	Check One Support	Oppose
C. [illegible]	City of Helena	408	X	
Clark Kuta	DNRC	408	X	

VISITOR REGISTER

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HOUSE BILL NO. 408

INTRODUCED BY FAGG, GILBERT, SWANSON, DOHERTY, YELLOWTAIL, WELDON, WEEDING, B. BROWN, WANZENRIED, BRANDEWIE, HARRINGTON, HIBBARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA SUBDIVISION AND PLATTING ACT; CHANGING THE DEFINITION OF SUBDIVISION; REMOVING THE OCCASIONAL SALE EXEMPTION; REMOVING THE 20-ACRE LIMITATION; MODIFYING THE FAMILY SALE EXEMPTION; CHANGING THE CRITERIA FOR LOCAL GOVERNMENT SUBDIVISION REVIEW; ~~LIMITING THE NUMBER OF PUBLIC HEARINGS ON SUBDIVISIONS;~~ AMENDING SECTIONS 76-3-102, 76-3-103, 76-3-104, 76-3-207, ~~76-3-605;~~ AND 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-102, MCA, is amended to read:

"**76-3-102. Statement of purpose.** It is the purpose of this chapter to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; ~~to require that whenever necessary, the appropriate approval of subdivisions be contingent upon a written finding of public interest by the governing body;~~ and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey."

Section 2. Section 76-3-103, MCA, is amended to read:

"**76-3-103. Definitions.** As used in this chapter, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to ~~himself~~ the landowner no rights ~~which~~ that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(3) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat

establishing the identity of the segregated parcels pursuant to this chapter.

(4) "Examining land surveyor" means a registered land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.

(5) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant thereto.

(6) "Governing body" means a board of county commissioners or the governing authority of ~~any~~ a city or town organized pursuant to law.

(7) "Irregularly shaped tract of land" means a parcel of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.

~~(8)--"Occasional sale" means one sale of a division of land within any 12 month period.~~

~~(9)~~(8) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building ~~parks, or any combination thereof which comprises~~ that

comprise a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

~~(10)~~(9) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

~~(11)~~(10) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body.

~~(12)~~(11) "Registered land surveyor" means a person licensed in conformance with Title 37, chapter 67, to practice surveying in the state of Montana.

~~(13)~~(12) "Registered professional engineer" means a person licensed in conformance with Title 37, chapter 67, to practice engineering in the state of Montana.

~~(14)~~(13) "Subdivider" means ~~any~~ a person who causes land to be subdivided or who proposes a subdivision of land.

~~(15)~~(14) ~~(A)~~ "Subdivision" means a division of land or land so divided ~~which~~ that creates one or more parcels ~~containing less than 20 acres~~ CONTAINING LESS THAN 160 ACRES THAT CANNOT BE DESCRIBED AS A ONE-QUARTER ALIQUOT PART OF A UNITED STATES GOVERNMENT SECTION, exclusive of public

roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and ~~shall--include~~ includes any resubdivision and ~~shall~~ further ~~include~~ includes ~~any~~ a condominium or area, regardless of its size, ~~which~~ that provides or will provide multiple space for recreational camping vehicles or mobile homes.

~~(B)--A-local-governing-body-may-increase-or--remove--the 160-acre-provision-in-subsection-(14)(A)-after:~~

~~(I)--providing--public-notice-pursuant-to-7-1-4128-for-a municipality-or-pursuant-to-7-1-2121-for-a-county;~~

~~(II)-conducting--a--public--hearing--according--to---the procedures-in-7-1-4131;-and~~

~~(III)-following--the--procedures--for--the--adoption--of ordinances-in-7-5-103.~~

(15) "TRACT OF RECORD" MEANS A PARCEL OF LAND, IRRESPECTIVE OF OWNERSHIP, THAT CAN BE IDENTIFIED BY LEGAL DESCRIPTION, INDEPENDENT OF ANY OTHER PARCEL OF LAND, USING DOCUMENTS ON FILE IN THE RECORDS OF THE COUNTY CLERK AND RECORDER'S OFFICE."

Section 3. Section 76-3-104, MCA, is amended to read:

"76-3-104. What constitutes subdivision. A subdivision ~~shall-comprise~~ comprises only those parcels ~~less--than--20 acres--which~~ that CONTAINING LESS THAN 160 ACRES THAT CANNOT BE DESCRIBED AS A ONE-QUARTER ALIQUOT PART OF A UNITED

STATES GOVERNMENT SECTION WHEN THE PARCELS have been segregated from the original tract~~,-and-the~~. THE subdivision plat ~~thereof-shall~~ must show all ~~such~~ the parcels whether contiguous or not."

Section 4. Section 76-3-207, MCA, is amended to read:

"76-3-207. Subdivisions exempted from review but subject to survey requirements -- exceptions. (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions of land are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions of land not amounting to subdivisions:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a SINGLE gift or sale IN EACH COUNTY to ~~any~~ a EACH member of the landowner's immediate family;

(c) divisions made outside of platted subdivisions by sale or agreement to buy and sell where the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;

~~(d) a single division of a parcel outside of platted subdivisions when the transaction is an occasional sale;~~

~~(e)~~(d) for five or fewer lots within a platted subdivision, relocation of common boundaries and the aggregation of lots; and

~~(f)~~(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. ~~Any restrictions or requirements~~ A restriction or requirement on the original platted lot or original unplatted parcel ~~continue~~ continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, ~~any~~ a division of lots ~~which~~ that results in an increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the governing body, and an amended plat must be filed with the county clerk and recorder;

(b) ~~any~~ a change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to the provisions of this chapter.

(3) ~~No~~ A division of land may not be made under this section unless the county treasurer has certified that ~~no~~ real property taxes assessed and levied on the land to be

divided are not delinquent."

~~Section 5.~~ ~~Section 76-3-605, MCA, is amended to read:~~

~~"76-3-605. Hearing on preliminary plat. (1) The governing body or its authorized agent or agency shall hold a public hearing on the preliminary plat and shall consider all relevant evidence relating to the public health, safety, and welfare, including the environmental assessment, to determine whether the plat should be approved, conditionally approved, or disapproved by the governing body.~~

~~(2) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on the preliminary plat and annexation whenever possible.~~

~~(3) Notice of such a hearing shall must be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. The subdivider, each property owner of record, and each purchaser under contract for deed of property immediately adjoining the land included in the plat shall also be notified of the hearing by registered or certified mail not less than 15 days prior to the date of the hearing.~~

~~(4) When a hearing is held by an agent or agency designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of~~

the--plat.--This--recommendation--must--be--submitted-to-the governing-body-in-writing-not-later-than-10-days--after--the public-hearing.

(5)--The--governing--body--or--its--authorized--agent-or agency-may-hold-no--more--than--two--public--hearings--on--a proposed-subdivision."

Section 5. Section 76-3-608, MCA, is amended to read:

"76-3-608. Criteria for local government review. (1) The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall-be is whether the preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, and or additional information demonstrate demonstrates that development of the subdivision would--be--in--the-public interest.--The---governing---body---shall---disapprove---any subdivision--which-it-finds-not-to-be-in-the-public-interest meets the requirements of this chapter.

(2) To-determine-whether-the-proposed-subdivision-would be-in-the-public-interest,--the The governing body shall issue written findings of fact which that weigh the following criteria for-public-interest: in subsection (3), as applicable.

(a)--the-basis-of-the-need-for-the-subdivision;

(b)--expressed-public-opinion;

(c)--effects-on-agriculture;

(d)--effects-on-local-services;

(e)--effects-on-taxation;

(f)--effects-on-the-natural-environment;

(g)--effects-on-wildlife-and-wildlife-habitat;-and

(h)--effects-on-the-public-health-and-safety.

(3) A subdivision proposal must undergo review for the following primary criteria:

(a) the effect on agriculture, local services, the natural environment, wildlife and wildlife habitat, and public health and safety;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part;

(c) the provision of easements for the location and installation of any planned utilities; and

(d) the provision of LEGAL AND PHYSICAL access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel."

NEW SECTION. **SECTION 6.** COORDINATION INSTRUCTION. IF HOUSE BILL NO. 280 IS PASSED AND APPROVED, THEN [THIS ACT]

IS VOID.

NEW SECTION. **Section 7. Applicability.** (1) [Sections 1 through 5 4] apply to all subdivision applications filed after passage and approval of [this act].

(2) [Section 6 5] applies to all subdivision applications filed after September 30, 1993.

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

-End-